

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 2011 Iowa Acts, House File 649, section 10, subsection 20(a), the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

This amendment allows the Department to recover Medicaid expenditures when liability for negligence (malpractice) is admitted or established. Iowa has been one of the few states that do not have this capability. These collections are now authorized by statutory changes enacted in 2011 Iowa Acts, House File 649. This change was one of the cost containment strategies recommended by Governor Branstad.

The Council on Human Services adopted this amendment on August 10, 2011.

The Department finds that notice and public participation are impracticable because the Department’s appropriation for the fiscal year beginning July 1, 2011, assumes the implementation of the cost containment strategies recommended by the Governor without a delay for notice and public comment. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(3).

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(1), that the normal effective date of this amendment should be waived, as authorized by 2011 Iowa Acts, House File 649, section 10, subsection 20(a).

This amendment is also published herein under Notice of Intended Action as **ARC 9697B** to allow for public comment.

This amendment does not provide for waivers in specified situations because the savings assumed in the Department’s appropriations will not be achieved if waivers are provided. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 249A.4, Iowa Code section 147.136 as amended by 2011 Iowa Acts, House File 649, section 85, and 2011 Iowa Acts, House File 649, section 10, subsection 20(a).

This amendment became effective September 1, 2011.

The following amendment is adopted.

Amend subrule 75.4(1), introductory paragraph, as follows:

75.4(1) When payment is made by the department the medical assistance program pays for a member’s medical care or expenses through the medical assistance program on behalf of a member, the department shall have a lien, to the extent of those payments, to upon all monetary claims which the member may have against third parties for those expenses. Monetary claims shall include medical malpractice claims for injuries sustained on or after July 1, 2011. The lien shall be to the extent of the medical assistance payments only.

[Filed Emergency 8/15/11, effective 9/1/11]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/7/11.